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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 CATHERINE E. WEST, R.N., B.S.N.,
12 P.H.N.,

13 Plaintiff,

14 vs.

15
16 CALIFORNIA BOARD of REGISTERED
17 NURSING, et al.,

18 Defendants.

CASE NO. 11cv1760-MMA (POR)

**ORDER DENYING MOTION TO
PROCEED IN FORMA PAUPERIS**

[Doc. No. 2]

**DENYING AS MOOT MOTION FOR
APPOINTMENT OF COUNSEL**

[Doc. No. 3]

19 On August 8, 2011, Plaintiff Catherine E. West, proceeding *pro se*, filed a complaint against
20 Defendants California Board of Registered Nursing and Employment Development Department.
21 Although the precise nature of Plaintiff's claims is unclear, she appears to challenge the revocation
22 or withholding of her license to practice as a Registered Nurse. Plaintiff also filed a motion to
23 proceed *in forma pauperis* and a motion requesting appointment of counsel.

24 All parties instituting any civil action, suit or proceeding in a district court of the United
25 States, except an application for writ of habeas corpus, must pay a filing fee of \$350. *See* 28 U.S.C.
26 § 1914(a). An action may proceed despite a plaintiff's failure to prepay the entire fee only if the
27 plaintiff is granted leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a). *See*
28 *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). "To proceed *in forma pauperis* is a

1 privilege not a right.” *Smart v. Heinze*, 347 F.2d 114, 116 (9th Cir. 1965).

2 Plaintiff avers that she is employed part time, earning approximately \$160 per week, and
3 currently receives Social Security benefits in the amount of \$1799 per month. In addition, Plaintiff
4 states that she is a recipient of a \$13,091 annuity payment. Plaintiff lists a variety of personal items
5 as valuable assets, and states that she owns an automobile. Plaintiff indicates that she owes monthly
6 debts, including rent, pet-related expenses, and payments to various creditors. The Court’s
7 calculates based on Plaintiff’s representations that her stated income exceeds her identified debts by
8 approximately \$600 per month.

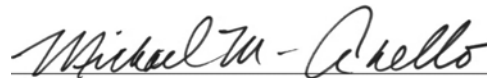
9 A party need not be completely destitute to proceed *in forma pauperis*. *Adkins v. E.I.*
10 *DuPont de Nemours & Co.*, 335 U.S. 331, 339-40 (1948). But “the same even-handed care must be
11 employed to assure that federal funds are not squandered to underwrite, at public expense, either
12 frivolous claims or the remonstrances of a suitor who is financially able, in whole or in material part,
13 to pull his own oar.” *Temple v. Ellerthorpe*, 586 F. Supp. 848, 850 (D.R.I. 1984). Here, Plaintiff’s
14 submission does not demonstrate that she lacks the financial resources or assets to pay the costs of
15 commencing this action.

16 Accordingly, the Court **DENIES** Plaintiff’s motion to proceed *in forma pauperis* for the
17 reasons stated above. Based thereon, the Court also **DENIES AS MOOT** Plaintiff’s motion for
18 appointment of counsel.

19 If Plaintiff wishes to proceed, she must pay the \$350 filing fee required to commence this
20 action on or before August 29, 2011. Failure to do so will result in the dismissal of the action.

21 **IT IS SO ORDERED.**

22 DATED: August 15, 2011

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24 Hon. Michael M. Anello
25 United States District Judge
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